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No. 4

## Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Dr. Alan Keiran, chief of staff, Senate Chaplain's Office.

### PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

God of grace and glory, we pray this day for our distinguished Senators and the Nation they so ably serve. Equip them with all the wisdom, strength, and perseverance needed to bring the important issues to closure. Bless those they love in their times of separation from family and friends. Bless their staffs as they labor to support the honorable men and women they so willingly serve.

For those military men and women deployed in harm's way, in far places, and their families, we pray Your providential protection. O Lord, our precious Saviour and eternal King, equip our Nation's noble leaders with the wisdom and endurance to meet the challenges ahead.

In Your holy Name we pray. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MICHAEL B. ENZI led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, January 23, 2004.

#### To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL B. ENZI, a Senator from the State of Wyoming, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. ENZI thereupon assumed the Chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will be in a period for morning business to allow Senators to make statements and to introduce legislation. Yesterday, we began consideration of the pension rate reform bill but did not complete action on that measure. If Senators desire to speak on behalf of that legislation, I do encourage them to come to the floor today during morning business.

As I announced yesterday, there will be no rollcall votes today. When we finish our business today, the Senate will reconvene on Monday to resume debate on this important pension rate bill. I expect amendments to be offered on Monday. However, any votes on Monday will be held over until Tuesday's session. Again, no rollcall votes will occur on Monday.

We will finish the pension bill Tuesday or Wednesday. I very much would like to complete that bill Tuesday, if at all possible, but we will finish it either Tuesday or Wednesday of next week and, as always, Senators will be notified of rollcall votes as they are scheduled.

I thank everybody for their participation and cooperation during the om-

nibus debate. It was the unfinished business from the last session and took a lot of cooperation on both sides of the aisle. That was demonstrated over the last several days, which we all very much appreciate.

The funding measure passed yesterday. As people saw from the ultimate vote, it was a bipartisan measure. It passed by a large bipartisan margin, and I appreciate the Members' assistance as we worked through the unanimous consent agreement in order to bring that bill to conclusion.

Lastly, before we finish our business for the day, we expect to be able to consider additional executive nominations that are on the calendar. I will continue to work with the Democratic leadership to move forward on those nominations that are available. I am pleased the Senate will be able to act on these important positions.

### SENATE PAGES

Mr. FRIST. Mr. President, in just a few minutes the Democratic leader and I will be participating in the graduation ceremonies for our pages. Although they are not here now because they are with their parents and family members at the beginning of that graduation exercise, I do, as I did last night, pay tribute to them. They are with us every day, every night, morning, noon, night—whatever hours—in order to work with us and make our lives much easier as we work very hard to carry on the Nation's business.

Mr. President, I thank everybody for their attention.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S205

## GUEST CHAPLAIN

Mr. DASCHLE. Mr. President, I welcome our guest Chaplain today. I know he is no longer in the Senate Chamber. I appreciate very much Chaplain Keiran's prayer this morning. I am grateful to him and to those who arrange for our guest Chaplains to join us on occasion. It is a wonderful way to begin our session, and I appreciate very much his words of wisdom today.

## SENATE PAGES

Mr. DASCHLE. Mr. President, I also join the majority leader in expressing our heartfelt gratitude to this page class for their contribution over these past many months. This has been a challenging time for the Senate, for a lot of reasons. They have served us very well.

As the majority leader noted, it is always difficult for a young person to combine the roles of student and page each and every week, getting up early, working, as they do, as students first and then as pages in carrying out their many responsibilities on the Senate floor.

I know I speak for all Senators in expressing our gratitude to them. They have heard the noise of democracy firsthand at full volume. They have been spectators, as well as participants. I hope that what they have witnessed and experienced will lead them to come back in other roles in public service in the future, whether it is at a staff level, an elected level, or an appointed level. Their involvement and their opportunities for future roles in government and public service could not be greater or more appreciated.

We welcome them back as we bid them farewell. We hope their ambitious character and the lives they have already experienced will encourage them to look for more opportunities to serve their country.

## LEGISLATIVE AGENDA

Mr. DASCHLE. Mr. President, the majority leader talked briefly about the schedule. I spoke yesterday on the pension bill, and I am very hopeful we can complete our work on the pension bill at an early date. I think it is a bill that merits broad bipartisan support and, judging from the cosponsors, prominent Members on both sides of the aisle who have worked to get us to this point, I have every expectation that we will see completion of our work on the pension bill sometime early next week.

We have—it is an overused word but certainly a word applicable here—a crisis with regard to pensions and retirement security, both in multiemployer plans as well as single-employer plans.

That crisis will not be satisfactorily or successfully confronted until we take several steps. This is only meant to be an interim step, but it is an important step. It is a temporary step

that will allow us some stability and confidence that we can address this issue more effectively in the months and years ahead.

Secondly, with regard to schedule, it is important for us to recognize the narrow window of opportunity we have to deal with the highway bill. We have already lost valuable time. We should have done this bill last year. Not only have we lost 90,000 jobs as a result of our failure to pass the bill last fall, we have also threatened the contract season this year by our inability to move this legislation more expeditiously. For all intents and purposes, the contract cycle has already started in the South. It is important that we send the message that we intend to finish this bill as early as possible. It is a jobs bill, an infrastructure bill. I cannot think of a greater economic stimulus. We are told by experts that we could create 800,000 new, good-paying jobs if we can move this legislation forward.

So it is my hope we will take this legislation up well before the President's Day recess in order to complete our work before that recess and send a signal to the country that we understand the importance of this legislation.

Finally, I call attention to a front-page story in the Wall Street Journal this morning. The headline of the story reads, "Halliburton Tells the Pentagon Workers Took Iraq-Deal Kickbacks." The first couple of paragraphs begin:

Halliburton Co. has told the Pentagon that two employees took kickbacks valued at up to \$6 million in return for awarding a Kuwaiti-based company with lucrative work supplying U.S. troops in Iraq. The disclosure is the first firm indication of corruption involving U.S.-funded projects in Iraq and raises new questions about Halliburton's dealings there. The company's work already is being scrutinized because of accusations that the U.S. government was overcharged for gasoline under another controversial contract.

It says a little later down, referring to that second charge now under investigation:

... the top Defense Department auditor asked the office to investigate whether Halliburton subsidiary Kellogg Brown & Root overcharged for fuel deliveries by more than \$61 million.

These charges in this new report are terribly disturbing. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 23, 2004]  
HALLIBURTON TELLS THE PENTAGON WORKERS  
TOOK IRAQ-DEAL KICKBACKS

(By Neil King, Jr.)

WASHINGTON.—Halliburton Co. has told the Pentagon that two employees took kickbacks valued at up to \$6 million in return for awarding a Kuwaiti-based company with lucrative work supplying U.S. troops in Iraq.

The disclosure is the first firm indication of corruption involving U.S.-funded projects in Iraq and raises new questions about Halliburton's dealings there. The company's work already is being scrutinized because of

accusations that the U.S. government was overcharged for gasoline under another controversial contract.

Halliburton has strenuously defended its Iraq work as fairly priced and free of taint. A discovery of kickbacks could expose the company to hefty fines and other punishments such as potential fraud charges. At the least, contacting experts say, Halliburton will be required to reimburse the money.

Any blow could be softened by the fact that Halliburton itself disclosed the misconduct to the Pentagon inspector general's office this week. That disclosure came just days after the top Defense Department auditor asked the office to investigate whether Halliburton subsidiary Kellogg Brown & Root overcharged for fuel deliveries by more than \$61 million.

The latest revelation, though, is sure to increase the already intense scrutiny Halliburton has received from congressional Democrats, some of whom charge that the Houston-based company benefited from political favoritism in securing lucrative work in Iraq. The news also is likely to further raise suspicions abroad that Iraq reconstruction work is largely benefiting U.S. companies and their employees.

Vice President Dick Cheney, who was chairman of Halliburton until he left in 2000, defended the company Wednesday in a Fox Radio Network interview. "They get unfairly maligned simply because of their past association with me," he said.

Halliburton stressed that it promptly told the Pentagon of the problem. "The key issue here is self-disclosure and self-reporting," a Halliburton spokeswoman said. "Halliburton international auditors found the irregularity, which is a violation of our company's philosophy, policy and our code of ethics. We found it quickly, and we immediately reported it to the inspector general. We do not tolerate this kind of behavior by anyone at any level in any Halliburton company." A company statement said the payments were "detected through the company's internal control procedures."

The company has fired the two employees, who were based in Kuwait and whose names were not disclosed. Halliburton said it could not discuss specifics of the matters because of a Pentagon review.

KBR is now repairing Iraqi oil fields and supplying everything from food and laundry services to housing for U.S. troops and coalition officials in Iraq under two huge contracts valued at up to \$16 billion. That work has so far cost nearly \$6 billion, well over twice what has gone into all of the other 40 other U.S. contractors in Iraq, according to government records.

In all, the U.S. has so far funded a total of about \$9 billion in Iraqi reconstruction costs, and expects to award contracts valued at another \$18.6 billion. Both the congressional general accounting office and the Pentagon are now completing large-scale investigations of all U.S.-funded reconstruction work in Iraq.

The alleged kickbacks involve the same KBR contracting office in Kuwait that handled the controversial gasoline contract. The Pentagon inspector general's office received the disclosure while conducting its own review to decide whether to open a criminal investigation into the gasoline contract. Pentagon officials decline to comment on the status of that investigation.

The current accusations do not involve the gasoline contract. Instead, the Kuwaiti company is said to have paid kickbacks to the KBR officials after winning lucrative subcontracts to help support U.S. troops in Iraq under what's known as KBR's LogCap contract. U.S. officials declined to provide specifics on the subcontracts involved or the

name of the company implicated in the pay-offs.

Halliburton said in a statement that the disclosure of what it called a "potential overcharge" was a sign of its "diligence" in managing its Iraq contracts. "KBR will ensure that questionable charges will be credited to the government and will seek recovery from the offending subcontractors."

Halliburton negotiated its current LogCap contract with a very thin profit margin of 1% over costs. It has a maximum bonus of an added 2% available if it delivers the needed services in an expeditious way. But under these so-called cost-plus arrangements, companies have little incentive to rein in costs or to assure that they pick the most competitive subcontractors, since the higher the costs, the higher the profit.

The disclosure comes as Pentagon documents continue to raise broader questions about KBR's financial controls in Iraq. A previously undisclosed Jan. 13 memorandum from a branch office of the Defense Control Audit Agency levels as "inadequate" KBR's system for accurately estimating the cost of ongoing work in order to justify payments. The memo was sent to various Army contracting officials.

The Pentagon has had to reject two huge proposed bills from KBR, including one for \$2.7 billion, because of myriad "deficiencies," the memo says. "We consider [the company's] estimates in the area of subcontracts to be inadequate," the memo says. The agency is now auditing proposed KBR bills totaling \$2.1 billion, the memo says.

Pentagon auditors last month said that KBR's Kuwaiti supplier, Altanmia Commercial Marketing Co., was charging the U.S. almost double the market price for gasoline. Auditors said the overcharging amounted to \$61 million through September, and as much as \$20 million a month since then.

The Army Corps defended the company's hiring of Altanmia in a lengthy Jan. 6 report. The report said KBR had "urgent and compelling needs" to use the Kuwaiti supplier, even at significantly higher prices than other potential suppliers.

Still, Pentagon officials are likely to home in on the circumstances under which KBR hired Altanmia. The Army Corps reports says KBR picked Altanmia on May 5 after making phone calls to just two other bidders. Officials say there is no indication of kickbacks involving Altanmia.

A number of anonymous whistleblowers have come forward in recent weeks with often-detailed allegations of KBR wrongdoing in Kuwait, including accusations of paybacks from companies that received lucrative subcontracting work from KBR, according to U.S. officials and congressional sources. These reports in turn have been taken up by the Pentagon's IG office.

The Pentagon's fuel unit, the Defense Energy Support Center, solicited bids yesterday for three fuel-delivery contracts meant to replace the work that KBR is now performing. KBR officials have said for months that they wanted out of the work, which they described as dangerous and not very profitable.

Mr. DASCHLE. As I said, it is very disturbing because there have already been serious concerns raised about the lack of scrutiny, auditing, and transparency with regard to the billions of dollars that are now being committed in Iraq. The Defense Contract Audit Agency has now been charged not only with taking responsibility for an audit, but they have also begun consideration of a criminal investigation. Clearly, if there is a possibility of a kickback, a criminal investigation is certainly warranted.

I am troubled by the lack of any expressed concern in the Congress. There has been virtually no oversight in either the House or the Senate. When matters of this magnitude and concerns of this level are addressed on the front pages of some of the most prominent newspapers in the country, I cannot think of a more important wakeup call for us. One of our primary roles as Members of Congress, of course, is oversight, to make sure that the money we authorize and appropriate is not only spent well but is spent as the American people would expect it.

I do not think we have any choice but to investigate this matter ourselves, to ask the appropriate committees, perhaps Government Affairs, Armed Services, Foreign Relations, to look into these issues, to ask the tough questions, and to have a somber appreciation ourselves of what is going on, why is it that we are reading for the first time reports of kickbacks when we have taken so little effort to understand the magnitude of the problem, the depth and scope of the issues that these allegations represent.

I think it is also important for us to call for a halt in all further contracts with Halliburton until these issues are clarified. For the life of me, I cannot understand why we would reward corporations or organizations of any kind that face such serious allegations of fraud and corruption, that are under investigation for perhaps overpricing the American taxpayer by \$61 million, at least with regard to the gasoline sold. Why we would award one more contract until these matters have been resolved? So I hope that on a bipartisan basis the Congress will live up to its responsibility, first, through oversight and, second, with a recognition that awarding contracts under circumstances such as these makes no sense whatsoever.

We will have more to say as we learn more, of course. These are very disturbing revelations. They merit more careful consideration. We need to learn more and understand what circumstances allowed the kickbacks in the first place. Lack of transparency above and beyond anything else will generate stories and situations like this over and over again.

Many of us have called for a complete public accounting of these funds, but here we are—no transparency, no public accounting, no oversight on the part of Congress, and the possibility of perhaps more contracts with Halliburton in the future. This is not the way to run a government, especially if we are hopeful of improving the confidence on the part of the American people that we understand the gravity of these issues and want very much to build their confidence that we are doing all we can in our efforts in Iraq to rebuild democracy, to provide for the assistance required. We have said on many occasions how troubling it is that we are the only real financial source for the economic, military, and public assistance provided to Iraq.

When the American people hear that much of that money may now be under a cloud, it is all the more imperative that we act to remove that cloud, to provide the confidence, the transparency, the oversight, and certainly the corrective actions required.

I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the remainder of the leadership time is reserved.

#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I ask unanimous consent that I be allowed to speak in morning business for as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DORGAN pertaining to the submission of S. Res. 289 are printed in today's RECORD under "Submitted Resolutions.")

#### IRAQI CONTRACTS

Mr. DORGAN. Mr. President, on just one more issue, quickly, the Democratic leader was in the Chamber moments ago speaking of something I am very concerned about as well. This is the front page of the Wall Street Journal today and it says: "Halliburton Tells the Pentagon Workers Took Iraq-Deal Kickbacks."

Let me read from the report.

Halliburton Co. has told the Pentagon that two employees took kickbacks valued at up to \$6 million in return for awarding a Kuwaiti-based company with lucrative work supplying U.S. troops in Iraq.

That disclosure came just days after the top Defense Department auditor asked the office to investigate whether Halliburton subsidiary Kellogg Brown & Root overcharged for fuel deliveries by more than \$61 million.

This isn't the first whisper of this kind of issue. Week after week after week, for months we have been hearing these charges. Do you think anybody in the executive branch seems very concerned about them? Apparently the auditors in the Defense Department are. But do you see anybody scrambling to hold a hearing about it and do some investigation and some inquiry to bring somebody to account for this? It is as quiet as church mice around here.

In the last 6 or 8 years, every time there was a hiccup there would be a Senate investigation or a congressional investigation and we would hire special counsel and lawyers and have people under oath. Here is an example of what we ought to be investigating as well.

How about getting to the bottom of this issue. The U.S. taxpayers are being overcharged \$200 million, perhaps, for hauling gasoline into Iraq by a company that is charging \$1 more than anybody else is charging for hauling the same gasoline into Iraq. How about some accountability for the American taxpayer. After all, this money comes from the American taxpayer. Overcharging, kickbacks, cronyism, preferential contracts, nonbid contracts—this demands, this begs for an investigation. This Congress has a responsibility to do it.

I suppose the administration, this Congress, and the majority party can ignore this for another week or another month. This is not going to go away. Kickbacks, overcharges—this isn't going to go away. The fact is this company just got a new contract. This is a slap on the wrist, a pat on the back. That is what this is all about. Let us have an investigation to find out who is doing this. Let us suspend those contracts right now. If we have work to do, if we have fuel to haul, if we have supplies to buy, if we have projects to finish, let us get contractors to do that. Let us have contracts to haul that fuel and to provide those supplies so that we are not going to have to wonder whether there are kickbacks or overcharges or fraud.

I am sick and tired of reading this in the papers and seeing inaction in this Congress—none. Week after week after week we have read about Halliburton and its subsidiary. It is not just us. The auditors in the Department of Defense think the taxpayers have been bilked—not by a thousand dollars or a couple hundred thousand dollars, but by tens and tens and tens of millions of dollars. Auditors in the Department of Defense believe that and are asking these questions. Yet this place looks as if it is at parade rest; won't move a muscle.

There needs to be an investigation by the committees and the leadership of this Senate. My colleague, Senator DASCHLE, described that obligation this morning. There needs to be an investigation. I hope this will happen soon.

It was my great concern, as I expressed when the Congress passed nearly \$20 billion for reconstruction in Iraq, that this was throwing money up in the air in a way that called for a carnival of greed. It looks like hogs in the cornfield. You have all of this money—billions and billions of dollars for the reconstruction of Iraq—and you have contractors running around trying to grab some of it. This contractor was one of the first with no-bid contracts, now we see these allegations—and they have been going on for months—about overcharges. Now we see allegations of kickbacks.

The taxpayers deserve better than that. The taxpayers deserve accountability. This money is not some money that vanishes somewhere. This is money that comes from the pockets of the American taxpayers. We tax the taxpayers to get their money, and then this money is spent for the reconstruction of Iraq—a country, incidentally, which we did not destroy. We are reconstructing facilities that we did not damage, such as roads, bridges, the electric grid, and dams. We didn't target them. We didn't destroy them. Now we are told that we must reconstruct them with American taxpayers' money—a position that I voted against, a position that I think is absurd—in a country with the second largest reserves in the world, Iraq, next only to Saudi Arabia, which ought to be able, in my judgment, to sell the oil that it produces to reconstruct itself.

For that country to rely, as the President insists it must, on American taxpayers' funds for reconstruction is absurd. But, nonetheless, that is what happened. The majority of this Congress decided they wanted to spend nearly \$20 billion of American taxpayers' money to do that. Now we see at least part of the result of it, and there will be more. But the signal this Congress ought to send is one of accountability and demanding through public hearings and a thorough investigation. Can we not be as aggressive as the auditors in the Defense Department? Can we not at least express the same concern that auditors in the Defense Department express about the potential of our being bilked out of hundreds of millions of dollars? That is the least the American taxpayer should expect from this Congress.

I think this Congress has not heard the last of this. I and others will be on this floor attempting to demand investigative hearings. The taxpayers, in my judgment, deserve hearings on these subjects.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### PENSIONS

Mr. KENNEDY. Mr. President, it is Friday. We had a good discussion yesterday about this very important pension funding amendment which is presented to the Senate by the chairman of the Finance Committee, Senator GRASSLEY, and the ranking member, Senator BAUCUS; they have shared jurisdiction on a number of pension matters with our committee, the Health, Education, Labor, and Pensions Committee, chaired by Senator GREGG and I as the ranking minority member.

The two committees have worked very closely in recommending this legislation. I am very grateful to all and to Leader FRIST for giving this a priority standing. By the early part of next week, the first part of the week, we will have final action. This will move very rapidly through the House of Representatives because it is of such importance to employers and employees. It is a temporary measure to meet the certain challenges of our time.

To review again very briefly, the defined benefit pension plans are a key part of the retirement security of Americans. Americans have sort of a three-legged stool for retirement. They have Social Security, they have their savings, and they have their pension.

While Social Security is certainly secure, there has been certainly a draw-down on the Social Security assets as a result of the excessive tax reductions of this administration. It is certainly secure at the present time.

We have also seen that many who put savings in 401(k)s, with the slide of the market in a number of instances, have had their savings significantly reduced. Because of a combination of different events that have taken place in the economy, there is a real question about whether the pensions are going to be there for many of America's industries, the pension programs which have been supported both by their employer and the employee, paid into by workers with the guarantee that their pension would be there, would be available for them in the future. In many instances, they are threatened.

This legislation is to provide breathing room into the current system to permit the system to get back on its feet and to be working again. We will take action and do it quickly.

The defined benefit pension plans are a key part of retirement security for millions of Americans; they are promised a monthly benefit starting at retirement and continuing through their life. The combined plans are different from other pension plans. Only a defined benefit plan provides benefits backed by the Pension Benefit Guaranty Corporation. Workers rely on the guarantees to help in old age to pay for health benefits, needed medical care, college, education, and for their homes.

This chart is an indication of how this whole program is established. There are nearly 35 million Americans covered by single employer defined benefit pension plans. And 9.7 million Americans are covered by multiemployer benefit plans. For example, in the construction industry—where workers move from one site to the other site—the process has been worked out through the employers, which is supported both by the employers and the workers, which gives a multiemployer benefit. But these are obviously workers who work hard, play by the rules, and have a similar kind of interest as the other 35 million. It is only the defined benefit plan that provides a secure monthly benefit backed by the Pension Benefit Guaranty Corporation.

Why this legislation is necessary is because of what has been referred to earlier in the discussion and debate about a series of different economic conditions that are threatening the defined benefit pension plan. We call it a "perfect storm" of factors that is hurting the defined benefit pension plan funding levels.

We have had a prolonged downturn of the stock market during the last 3 years, the longest decline since the Great Depression. Then we have had extremely low 30-year Treasury bond interest rates. That may be good for those who are buying a new car or attempting to buy a new house, but if we are looking at how the pension plans were established and tie into the 30-year bond interest rates, we would see this factor, the decline of the stock market, the low interest rates and the general weak economic conditions, which mean that companies cannot afford to make additional payments and pay excise taxes imposed by our pension laws. These three elements combined have put the pension system generally, for some almost 45 million Americans, in serious jeopardy.

We have come up with a bipartisan program. It is temporary, over a 2-year period, which we believe can offer the relief to permit the programs to come back and survive.

Late yesterday afternoon, my friend from Arizona, Senator KYL, offered amendment No. 2234. Senator KYL called this a "hold harmless" amendment for the Pension Benefit Guaranty Corporation. That description is misleading because this amendment is anything but harmless. In fact, it harms the workers who can lose pension benefits as a result of this amendment.

The PBGC's mission is to preserve and protect the defined benefit of American workers. By paying premiums into the PBGC, companies and their workers are buying security. They are buying a secure guarantee, that if for some reason a company can no longer provide the promised benefit, workers receive a pension from the PBGC. This amendment undermines that security and strikes at the heart of the mission by taking away pensions that workers have earned. It would replace guarantees with broken promises.

My colleague expressed concern that if the pension plans fail, it would hurt workers. The irony is his amendment would make those workers in failed plans even worse off than they are under current law. It would make workers pay the price for financial relief that companies are receiving. The companies receive the relief; the workers would pay the penalty.

Our amendment explicitly applies to airline and steel companies. Employees in those industries have already made many sacrifices to keep their companies and pension plans afloat. We should not penalize them by taking away pension benefits they have earned.

Finally, I am well aware of the need to preserve the PBGC's financial integrity. I know my colleagues on both sides of the aisle share my concern. None of us wants to put the Nation's pension system at risk. That is why our substitute amendment targets the DRC relief to where we think it is both needed and justified. Only companies that had well-funded—well-funded—pension plans in 2000 would be provided with that relief. We exclude poorly funded plans where relief would simply expose the PBGC to increased deficits.

So PBGC deficits will not be solved by taking benefits away from workers. Rather, we must seek to stabilize and expand our defined benefit pension system.

As I say, this proposal and compromise has been carefully structured and carefully drafted to try to meet very special needs, and it is intended to do so. I believe the Kyl amendment would undermine that fundamental concept.

The results of this "perfect storm" have not only had an enormously adverse impact and effect on the pension system but they are having a real adverse impact on the lives of many of our fellow Americans. I think it is important that we in this Chamber begin to understand this. The stock market may be going up with the profits, but what is happening out on Main Street should be the concern of every one of us in this body.

#### SUPPORTING AMERICAN WORKERS

Mr. KENNEDY. Mr. President, I am going to mention a series of events, many of which have just taken place in the last day or two, which either were published reports, news reports, or television reports that indicate another side of America than is the America being described with rose-tinted glasses.

First of all, today there are some 13 million children who are going hungry. Eight million Americans are unemployed. Eight million workers lose overtime under the Bush proposal. We have had debates and discussions on this issue. We are going to come back to it very soon, at the first opportunity, hopefully even as soon as next week. Seven million low-wage workers have been waiting 7 years for an increase in the minimum wage. I will come back to this issue. And 3 million more Americans are living in poverty since President Bush took office.

The final point I make is that 90,000 workers a week are losing their unemployment benefits—90,000 workers a week. We have the unemployment compensation fund which is funded at close to \$20 billion. We have tried to get a temporary extension for some 13 weeks. It has been objected to now more than a dozen times by those on the other side of the aisle. It costs about \$7 billion. Nearly twenty billion dollars are there.

These workers are paying into the fund. We are talking about workers

who have worked hard, paid into the fund, and the fund is out there and meant to assist the workers during an economic downturn. These workers should not be blamed for the economic downturn, and they are being blamed by denying them the extension on the unemployment insurance. As I say, 90,000 workers a week are losing their unemployment benefits.

I will mention one other chart that helps illustrate what I mean when I talk about 13 million children who are going hungry every night. Hunger is increasing for the minimum-wage families. The Agriculture Department reported 300,000 more families are hungry today than when President Bush first took office—300,000 more. Twelve million American households are worried they will not have enough to eat. And nearly 4 million American households have someone going hungry.

This is in a country that can produce more agricultural products than any other country in the world, by far. We spend billions of dollars on land to ensure it is not going to be productive. We know how to do two things, if nothing else, in this Nation: We know how to grow food, and we know how to deliver it. We have the greatest agricultural lands in the world. We have effectively a Federal express. They can deliver products overnight. We know how to deliver it. We do not have to feed everyone by Federal express, but we sure know how to get food or get any product to people's homes or to the needy people. I believe hunger in America is a national disgrace. So this is a matter of very considerable concern.

Last evening, when I returned home at a little after 6 o'clock, I turned on CNN and I was caught by a piece they did reporting on "Overwhelmed America." The broadcaster said: "Tonight, the overwhelmed American worker." This is the report on the study called "Overwhelmed America."

Wages are stagnant, productivity is soaring, which means many Americans are effectively working more for less. And making matters even worse, millions of American workers now find themselves competing with cheaper foreign labor just to hold on to their jobs.

Then it went on to Kate Bronfenbrenner, professor at Cornell University:

The workers there are frightened because they wake up each morning and they don't know whether their job is going to be outsourced, downsized, contracted out, or eliminated.

Outsourced, downsized, contracted out, or eliminated.

They are overwhelmed because they feel like forces way beyond their control are making the decisions that affect their lives. And they are exhausted because they are working harder, longer, and faster just to stand still. Americans are scared of losing their jobs. They are working longer, harder, and they still don't have job security.

I will include the whole piece. It is a short piece, but I will read another sector:

In growing numbers workers are feeling overworked, underappreciated, and burned

out. That is according to a recent study of 1,100 workers that concluded "Emotion about the current work experience is extremely negative."

And the report goes on. I listened to that last night. It was very interesting. It is something that, again, restates basically what we have been saying on the floor of the Senate.

I ask unanimous consent that that CNN piece be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRANSCRIPTED EXCERPT FROM CNN ON "OVERWHELMED AMERICA," JANUARY 22, 2004

PILGRIM: Tonight the overwhelmed American worker.

Wages are stagnant, productivity is soaring, which means many Americans are effectively working more for less. And making matters even worse, millions of American workers now find themselves competing with cheaper foreign labor just to hold on to their jobs.

Peter Viles has the report.

PETER VILES (CNN Correspondent). This is the California grocery strike, but it might as well be from a time capsule, because the strike, the ultimate workers' weapon, is almost extinct in America.

In the 1950s, there were 352 major strikes per year, so far this decade, 25 per year. Unions have lost membership and lost clout. Real wages have been stagnant for three decades. One labor scholar describes workers right now as frightened, overwhelmed and exhausted.

KATE BRONFENBRENNER (Professor, Cornell University). They are frightened because they wake up each morning and they don't know whether their job is going to be outsourced, downsized, contracted out or eliminated. They are overwhelmed because they feel like forces way beyond their control are making the decisions that affect their lives. And they are exhausted because they are working harder and longer and faster just to stand still.

VILES. So why are workers not pushing back, demanding wage increases or better benefits? Experts say workers just don't have the leverage and are also growing discouraged about the future.

LARRY MISHEL (Economic Policy Institute). Individual workers are scared for their jobs. They think that any job they have is going to be better than the job they are going to get next. That keeps them from pushing back on employers.

VILES. In growing numbers, workers are feeling overworked, underappreciated and burned out. That's according to a recent study of 1,100 workers that concluded—quote—"Emotion about the current work experience is extremely negative."

DONALD LOWMAN (Managing director, Towers Perrin). I don't think workers are apathetic. I think they are very negative right now. There is a big group that's quite negative right now. They fear intensely, though, about their job. They would really like to see things change. They have not withdrawn. They are not indifferent.

VILES. There are signs that workplace anxiety is shaping up as a major campaign issue. In Iowa, the two most important issues to caucus-goers, not terrorism or Iraq, but the economy and health care. The workplace anxieties fueled by what some economists are now calling the worst hiring slump since the Great Depression in America, a jobless recovery that continues to surprise and disappoint economists, but also continues to give employers the upper hand in the labor market—Kitty.

PILGRIM. Pete, what would it take to give the employees some leverage? It seems like an impossible situation.

VILES. It would take a lot more hiring. Until the millions of people who are unemployed and the millions working part-time who want full-time work get into the job market, employers have the leverage. Employers don't give raises because they think they should. They give raises because they have to. And right now, they don't have to.

PILGRIM. Yes. Thanks very much, Pete Viles.

VILES. Sure.

Mr. KENNEDY. And then, lo and behold, this morning, on the front page—on Friday, January 23—what is the leading story in the Wall Street Journal? "The Gap in Wages Is Growing Again for U.S. Workers. Inequality Is Seen as Result of the Jobless Recovery. . . ."

Wage inequality—the gap between America's highest and lowest earners—has started widening again, a situation with election-year ramifications.

The trend is a reflection of the job market's exceptionally weak response to the current economic recovery, as well as long-term technological and economic changes that have eroded the bargaining power of America's lowest-paid workers.

The data show that young workers—who currently have fewer job prospects than a few years ago—and men, in particular, are bearing the brunt.

The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton—

That is the Wall Street Journal report.

The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton and the economy slid into recession three years ago. The trend represents a reversal from the late 1990s, when the lowest unemployment rates in a generation had enabled the lowest-paid workers to keep pace with those at the top.

The article goes on. I ask unanimous consent that the article in its entirety be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 23, 2004]

THE GAP IN WAGES IS GROWING AGAIN FOR U.S. WORKERS

INEQUALITY IS SEEN AS RESULT OF THE JOB-LESS RECOVERY; POTENTIAL ELECTION THEME

(By Greg Ip)

WASHINGTON.—Wage inequality—the gap between America's highest and lowest earners—has started widening again, a situation with election-year ramifications.

The trend is a reflection of the job market's exceptionally weak response to the current economic recovery, as well as long-term technological and economic changes that have eroded the bargaining power of America's lowest-paid workers. The data show that young workers—who currently have fewer job prospects than a few years ago—and men, in particular, are bearing the brunt.

New data from the Labor Department show that after adjustment for inflation, salaries of the country's lowest-paid workers—those who fall just inside the bottom 10 percent of the pay range—fell 0.3 percent last year from 2002. Meanwhile, the salaries of the highest paid workers—those who are just inside the

top 10 percent—were unchanged. The divergence appeared to grow in the fourth quarter as higher-paid workers gained ground and lower-paid workers slipped further, based on comparisons with original year-earlier data that are subject to revision.

The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton and the economy slid into recession three years ago. The trend represents a reversal from the late 1990s, when the lowest unemployment rates in a generation had enabled the lowest-paid workers to keep pace with those at the top.

This wage picture is likely to figure in this year's unfolding election campaign. Democratic presidential candidates have made the economic hardship of typical working families a centerpiece of their platforms. They also say President Bush's tax cuts aggravate growing inequality by giving larger benefits to those in higher income brackets.

President Bush has pushed tax cuts for all families as well as improvements in public schools as the keys to increasing employment and individual prosperity. In his State of the Union address this week, he proposed spending \$250 million on a program for community colleges to train workers for jobs in growing sectors and boosting Pell Grants, which help poor students pay for college. These moves will "help more and more Americans to join in the growing prosperity of our country," Mr. Bush said.

Increased inequality "is the totally predictable result of relatively strong growth in tandem with relatively high unemployment," said Jared Bernstein, an economist at the liberal Economic Policy Institute in Washington. "right now we have far more job seekers than jobs [and] workers just lack the bargaining power to push for a larger slice of the growing pie. It's a recipe for higher inequality."

The new turn may merely represent a return to a longer-term trend that was only temporarily stalled. Sheldon Danziger, an economist at the University of Michigan, said inequality began to increase in the 1970s, and now appears to have resumed after an interruption in the late 1990s. Prof. Danziger, who has studied inequality extensively, attributes the trend to technological change and increased trade, which have placed a premium on higher-paid workers' skills while displacing many lesser-skilled workers from well-paying jobs. Other factors at play are the decline in unionization and the stagnant minimum wage.

In a report released last week, the Labor Department's Bureau of Labor Statistics said that, overall, the median full-time worker over 16 years of age earned \$625 a week in the fourth quarter of last year, up 2 percent from a year earlier. But adjusting for increased consumer prices that represented just a 0.1 percent increase in purchasing power.

The median represents the midpoint: half of all workers earn more, and half earn less. It is considered more representative of the typical family than is the average paycheck, which can be heavily influenced by movements of the highest wages.

The widening gap seen last year between the top—typically managers and other professionals—and the bottom—which includes restaurant workers, security guards and other service positions—were part of a movement that now appears to have begun with the recession in 2001. The weekly wage of the worker at the "10th percentile" of wages rose from \$284 in the fourth quarter of 2000 to \$303 in the fourth quarter of last year, a total increase of just 0.6 percent, after inflation. (Tenth percentile means that worker's wage represented the cutoff point between the 10

percent lowest paid workers and the 90 percent better-paid workers.) In the same period, the weekly wage of the 90th percentile worker rose from \$1,299 to \$1,440, an increase of 4.5 percent after inflation.

It was a different story in the late 1990s. Between late 1996 and late 2000, real wages for the lowest paid workers rose 8 percent, not much less than the 8.8 percent gain for the highest paid.

The latest data cover full-time salaried workers, representing about 100 million workers, or about two-thirds of the labor force. They don't include part-time workers, the self-employed, the unemployed, those not in the work force such as retirees, taxes, government payments, or investment income. As such, the figures don't fully capture trends in total family disposable income. The data aren't distorted by pay packages to executives and others through such methods as stock options which ballooned in the 1990s but have shrunk some recently. That is because even at the 90th percentile, the annual salary, about \$75,000, is still modest compared with what most senior corporate executives earn.

The data are broadly consistent with trends in the Census Bureau's much larger annual report on household-income trends, which are available through 2002.

Many scholars attribute widening income disparities to technological change, which displaces workers whose jobs can be easily done by a machine or computer program, while boosting the productivity of workers who get to use the more sophisticated technology.

Mr. Danziger notes he doesn't wait in line as much at the airport because "I can buy my ticket and print my boarding pass online." As a result, he bypasses several traditional middle-class workers, such as travel agents and the people at the ticket counter. Increased trade is also a factor. Routine, lower-skilled jobs are more easily shifted to lower-wage workers overseas, even as trade with such countries gives most Americans access to cheaper products.

Other scholars emphasize other factors, including a federal minimum wage that hasn't risen since 1997, and the declining power of unions, which traditionally bargained to raise the wages of all workers, regardless of their skill or experience.

Indeed, according to a separate Labor Department report this week, the average weekly paycheck of union members grew 3 percent last year from 2002, before adjustment for inflation, to \$760, while the weekly paycheck of nonunion members grew 2 percent, to \$599. But the share of U.S. workers who are union members continued its long-term decline, falling to 12.9 percent from 13.3 percent in 2002. A related trend has been manufacturing's declining share of employment; factories traditionally were a source of well-paying, less-skilled, often unionized jobs.

The latest Labor Department wage data suggest that young workers and men have been hardest hit. The median paycheck of workers age 16 to 24 shrank slightly, after inflation, from 2000 to 2003 while that of workers age 25 and over grew 0.6 percent a year. In the late 1990s, young workers' wages grew faster.

Also, the median paycheck of men grew just 0.3 percent a year, much less than that of women, at 1.8 percent a year, although at \$704 a week, men still earn about 25 percent more. There was little difference in trends for white and black workers. While in recent decades the wages of better-educated workers have grown faster, that wasn't the case recently: College-educated workers actually did a bit worse than those with just a high-school diploma in the past three years.

On the campaign trail, Democratic Sen. John Edwards of North Carolina has hammered most on the theme of income disparity. Under President Bush, "there are two Americas, not one," he said last month. "One America does the work, while another America reaps the reward."

Gen. Wesley Clark has also pushed that theme. "We may have had a good [economic-growth] number, but where it really matters—whether people are getting jobs and what they're earning on those jobs—people in America are still struggling," said Jason Furman, policy director for the Clark campaign.

But Kevin Hassett, a scholar at the American Enterprise Institute, said the lesson of the late 1990s is that the best way to lift lower-paid workers' wages is through strong economic growth, which is what Mr. Bush's tax cuts are delivering.

Mr. KENNEDY. Mr. President, an Economic Policy Institute report came out January 21. Here we are, on January 21, the Economic Policy Institute's study of job shifting. It says:

In 48 of the 50 States, jobs in higher-paying industries have given way to jobs in lower-paying industries—

The jobs that are being created in these States, as an average, are going down.

since the recession ended in November 2001. Nationwide, industries that are gaining jobs relative to industries that are losing jobs pay 21 percent less annually. For the 30 States that have lost jobs since the recession purportedly ended, this is the other shoe dropping—not only have jobs been lost, but in 29 of them the losses have been concentrated in higher-paying sectors. And for 19 of the 20 States, they have seen some small gain in jobs since the end of the recession. The jobs gained have been disproportionately in lower-paying sectors.

Two States have grown 21 percent less. Nebraska and Nevada are the two States that are the exception. Here is the State of New Hampshire, which still has fewer jobs than when the recession ended, and where the wages in industries gaining jobs are 35 percent lower than wages in industries losing jobs. For new jobs, they are getting paid 35 percent less in the State of New Hampshire.

The State of Delaware likewise has lost jobs since the recession ended and where job-gaining industries have wages 43 percent below those in the job-losing industries.

Colorado has lost 2 percent of its jobs since the end of the recession and job-gaining industry wages are 35 percent below the wages in job-losing industries.

West Virginia has lost 1.7 percent of its jobs since the end of the recession, and wages in job-gaining industries are 33 percent below wages in job-losing industries.

These are the facts. We have the Wall Street Journal, the Economic Policy Institute, and the study that was quoted in *Overwhelmed America*—that is just in the last 24 hours—about what is happening in America.

That is a good deal different than what I heard in the State of the Union Address by the President. The President said on page 4:

This economy is strong and growing stronger . . .

Americans took those dollars [from the tax cut] and put them to work, driving this economy forward. The pace of economic growth in the third quarter of 2003 was the fastest in nearly 20 years. New home construction: the highest in almost 20 years. Home ownership rates: the highest ever. Manufacturing activity is increasing. Inflation is low. Interest rates are low. Exports are growing. Productivity is high, and jobs are on the rise.

These are two different Americas, Mr. President, two entirely different Americas. It is the second America that many of us are fighting for here in the Senate.

What has been the answer by the administration? Let's take the minimum wage, for example. Minimum wage, unemployment compensation, overtime—we have made the presentation that American workers are working longer and harder. Not only are individuals working longer and harder, but families are working harder and longer. Women are working longer and harder. Look at what happened. And we wonder why we are seeing the increasing incidence of hungry children and hunger in America—look at what happened to the minimum wage. Now it is, without the increase, down to \$4.95. That is about the lowest it has been in years. Seven long years without an increase. A majority of the membership would vote for an increase in the minimum wage. The Republican leadership and the Bush administration will not give us an opportunity to do so. In 7 years, we have increased our own salary six times, but we have not had an increase in the minimum wage.

We will talk about an increase in the minimum wage. Americans, I believe, think someone who works 40 hours a week, 52 weeks a year, should not have to live in poverty in the strongest Nation in the world, with the strongest economy and the strongest military. I think that is a family value—being able to provide for your children, parents having a sense of dignity and pride in their work and work product, families being able to stay together. That is a family value. We hear a lot of speeches on this floor and elsewhere about family values. That is a family value—making sure that hard-working men and women are going to be able to provide for their families. We are denied that opportunity.

We are not taking no for an answer. That minimum wage is coming at this institution and it is coming once, twice, as many times as necessary. So there will be no doubt among the American people who will be standing for those workers and who is against them.

Unemployment compensation. Ninety thousand workers who worked hard now have seen their benefits expire—90,000 a week. We have heard on the other side of the aisle in the last 2 days—the leaders in the Republican Party—saying: Don't worry about it, Senator, we are creating new jobs.

Well, let's have a reality check. The administration promised 300,000 jobs

and the reality is 1,000 jobs. Who are we kidding? The American people are getting used to the fact that there is a lot of rhetoric on the one hand and no followup on the other. That was true in the No Child Left Behind Act, and it is apparently true about our trip to Mars.

Did you see the rollout of the President talking about going to Mars, and there was no mention of it in the State of the Union Address. The best estimates are it will cost a trillion dollars and they are allocating \$5 billion. Get the political hit and then forget about it. That is also what happened with No Child Left Behind. That we cannot get an extension on unemployment compensation, when the economy is creating only 1,000 jobs, and they estimated over 300,000, makes the point. Those hard-working Americans who paid into the unemployment compensation fund, which is in surplus at the present time, should be able to get the extension of 13 weeks.

Third is the overtime issue. We have seen who that affects. It affects basically the policemen and firefighters and nurses—some 8 million Americans. And included in the recommendations, as I pointed out, for the first time, it will say if a veteran had certain kinds of training in the military, which may very well have been the reason he went into the service—obviously, the underlying reason is because he or she wanted to serve their country. But the idea that you are going to get a skill is attractive, too. You can get education benefits, which is attractive, too. That makes a difference in recruitment. We have seen it. I know about it. I am on the Armed Services Committee. We know we are falling further behind and not meeting our recruiting goals in the National Guard by 10,000 this year. We know we are offering any of the soldiers over in Iraq a bonus of \$10,000 if they reenlist over there. So we know we have these challenges.

Now for the first time they are prohibiting overtime, not only for those I just mentioned, but the rule, as I read into the RECORD, includes—these are the exact words, Mr. President:

Under the Bush plan, veterans who have received training in the military that is equivalent to a specialized 4-year degree could be classified as exempt "professional employees" and lose their overtime protection.

There is a whole list of training programs. Obviously, we have new technology. Our military is the best in the world. We have new technology, new training programs. People go into the military and get the training. They serve our country and risk their lives to protect our Nation. They come back from Iraq and get a job, but no, no, you don't get overtime.

Why did they put in that provision? It is interesting. In looking over the comments of different groups about overtime, there is one particular company, a major defense company, which commented on the Bush proposal saying that their company observes that many of its most skilled technical

workers received a significant portion of their knowledge and training outside the university classroom, typically in a branch of the military service.

There you go. So they add, we will include the American military veterans in banning them from receiving overtime. People wonder why workers are discouraged, overworked, they can't get decent pay, they can't get benefits. They have seen their jobs outsourced. They are seeing their jobs sent overseas. Their pension programs are in jeopardy. Their security in the job place is very much threatened.

We ought to be thinking about what we can do for families. There are a series of steps we can take. Certainly increasing the minimum wage, extending unemployment compensation, and making sure these workers receive overtime is just a bare minimum.

I look forward to the debate on those issues. This is really a part of a whole concept, and that is the condition of workers in this country. We didn't even begin to get into the workers' payment of prescription drugs, which has been escalating out of sight. The bill that passed some weeks ago, and the prohibition written into that bill, again behind closed doors, prohibits Medicare from bargaining for bulk-rate purchasing of prescription drugs that would give some advantage and protection for our seniors. That has affected the quality of life for working family members who retire and are on Social Security and pay much higher prescription drug prices.

I didn't mention that impact and what is happening to working families. I haven't mentioned the extraordinary escalation of the cost of health care. I was rolling over in my mind the answer by the administration to the escalation of health care costs. The one answer that was given in the State of the Union Address was malpractice insurance is going to solve this problem. Come on.

We are at the present time spending close to 15 percent of our gross national product on health care, more than \$5,000 for every man, woman, and child. Thirty cents out of every dollar is a nonclinical dollar. Most industries are down 17, 18 percent. If we reduce the 30 cents to 27 cents, we save \$50 billion a year. If we reduce it to 20 cents, we save \$100 billion a year. We can do a lot with \$100 billion. There are ways of doing that. Do you think we can do that?

We will have an opportunity to debate those issues. I welcome the fact the majority leader says health care and health insurance will be on the floor because we will have an opportunity to get a meaningful result. It may not be the kind of program the pharmaceutical industry supports, and it may not be the program the insurance industry supports, but, by God, it will be a program the average family and the working families of this country will support, and it will make a difference in their lives and in their families' lives.

Mr. President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RESERVISTS AND NATIONAL GUARD

Mr. KENNEDY. Mr. President, in a CNN program last night they asked the question: "Do you believe reservists and members of the National Guard are treated fairly by the Army?" This was just about the time I turned on the CNN program. You could indicate before the end of the program what your vote would be.

It is extraordinary. This is a CNN quick vote. It is not guaranteed science, but it is a reaction, certainly by those who watch CNN: "Do you believe reservists and members of the National Guard are being treated fairly by the Army?"

Yes, 15 percent; no, 85 percent. No, 85 percent. It seems to me we have a lot with which to be concerned. We talk about our state of the Union. We talk about our National Guard. We talk about working families. The National Guard are the working families, and the reservists are the working families. They are patriotic men and women.

I am so proud of those from my own State. I have met with them frequently. We have lost 18 servicemen from Massachusetts. We value every one in their service to our country, their bravery, heroism, and devotion. The Guard ought to be treated fairly by this country and the military.

We have a lot of work to do in this session.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PENSION FUNDING EQUITY ACT

Mr. ENZI. Mr. President, I do want to talk a little bit this morning about the pension bill, which is the current bill we are considering. I am sure all of us can remember our first jobs when we came home with our first paycheck, anxious to spend it, and if our parents happened to be around they gave some advice and suggestions for us. First, they probably suggested we figure out where we were going and, secondly, that we put something away. If it was

before college, it was probably for college. If it was after college, it was probably a suggestion that we start thinking about when we retire.

The pension funding laws that we are considering today have that same objective. We have reached a major crossroads in the private pension system that affects the retirement security of millions of American workers. The funding requirements for defined benefit plans contained in the Employer Retirement Income Security Act—ERISA is what it is usually referred to—and the Internal Revenue Code are very complex. Yet their goal is clear, and that is to make sure a plan has sufficient assets to pay the future benefits when workers retire.

I am not sure there has been much explanation on the difference between defined benefits and defined contributions. The ones we are talking about are defined benefits. There is a transition happening in this country. As fast as companies can, they are going to define contributions. That is where they say how much they will put away for future retirement, as opposed to this crisis area which is defined benefits. Defined benefits means you are guaranteed something when you retire; based on the length of time you have worked and maybe how much money you have made, it is a defined benefit. It is what you are going to receive.

So there can be a lot of complexities to calculating how to have enough money so that at the time you retire there is money in the bank to pay the annuity that you deserve at that point in time.

So we can see why there would be kind of a rush to the defined contribution, which is where the company at that point in time knows exactly what they have to pay in each year and they are willing to do that, but they are not telling you that you are going to have a specific amount when you do happen to retire. There will be money there, but it will not be a specific plan of receipt at that point in time.

All we are talking about in this particular pension bill are the defined benefit plans. That was set up under law so that when a company says you will have these benefits, you know that the Federal Government is providing some oversight to make sure those benefits will be available when the time for you to retire happens.

So companies are forced to show they have the resources on hand to make these future benefit payments when they come due. Pension law must be finely tuned to accurately reflect the plan's ability so that the appropriate funding levels can be determined.

Unfortunately, the current system is off key. We have had some different things happen than we have had to worry about in this system for a long time. The outdated 30-year Treasury rate, which is what is used to calculate a plan's current liability, has distorted the funding levels. Simply put, a lower interest rate means employers have to

put more cash into their plans to satisfy the pension funding requirements, and continued use of this artificially low interest rate places the worker's retirement, the pension plan, and the employer's business at risk. If all of the money for the retirement plans was actually being held in 30-year Treasuries, then that would be an accurate calculation, but it is not. It has not been for quite awhile.

We have not changed the way that it is calculated. So continued use of this artificially low interest rate does place the retirement plan, the worker's retirement, and the business itself at risk, particularly if we expect them to make up differences that occur for a number of reasons in a very short period of time.

Pension plans are built over a long period of time, and it has always been the intent that they be built over a long period of time, so that when the person retires the money is there, and what we are trying to do in this bill is to make sure all of those things happen. A business that goes out of business no longer provides the security for the employee, and too steep of a curve for putting money in there keeps them from doing the business they are designed to do, which over even a short period of time can eliminate that business. A bankrupt business does not provide the kind of security that is needed for the retirement system. Under the current system, with the 30-year Treasury rate, businesses will have to divert billions of dollars from development and job creation to satisfy the misguided funding rules of the 30-year Treasury. Again, if that is where all the money was—it is where very little of the money is—then that would be an accurate way to do it.

The number of defined benefit pension plans in this country is steadily declining. I have given you a little bit of the reason why that is, but it is due in large part to the complex and restrictive pension laws. In 1983, there were 175,000 defined benefit pension plans. Today there are fewer than 35,000. Many more companies may choose to freeze or discontinue their plans when faced with artificially inflated funding payments. We must act now to prevent further deterioration of the pension system and to protect our economic recovery. But we must not act in haste to pass long-term sweeping changes that might undermine the retirement security of American workers.

A use of the obsolete 30-year Treasury rate has combined with recent stock market losses and economic conditions to create what we are all referring to as "the perfect storm" for the pension fund environment. Last year the Pension Benefit Guarantee Corporation had a record \$11.2 billion deficit. The amendment offered today will provide temporary relief to recover from this perfect storm, while Congress considers comprehensive pension funding reform—comprehensive reform, but

not just done in a hurry so it is just an overreaction.

The amendment provides the following temporary relief. I am very pleased this is supported in a very bipartisan way. There were agreements to limit the number of amendments, to make sure the second-degree amendments were germane to the main amendment, so that we can get this wrapped up in a hurry and get some temporary relief in place.

What the bill does, it replaces the 30-year Treasury bond rate with a conservative long-term corporate composite rate. This is done for a period of 2 years. It also defers a portion of accelerated deficit reduction contributions by airlines and steel companies for 2 years. That is the accelerated deficit reduction, accelerated because of this perfect storm. That is just for a period of 2 years. It also defers the amortization of recent investment losses by multiemployer plans for 2 years, which allows these collectively bargained plans time to return to the bargaining table.

I stress this relief is temporary. It does not forgive a pension plan's debt. It contains the important safeguards to prevent further decline in the financial health of a plan. It gives the plans time to recover their footing—and this may be just as important—and gives Congress time to carefully consider the best way to improve the troubled pension funding system.

It is often the case here that if something is worth reacting to, it is worth overreacting to. We have to be careful not to overreact to the pension system's current funding troubles. Replacing the 30-year Treasury rate along with improving economic and market conditions should improve the temporary funding deficiencies created by this perfect storm. But we have to look beneath the clouds of recent unique circumstances to see the true health of the pension funding system and identify where reform is needed. We must learn from the lessons of the perfect storm to reduce the volatility, to bring pension accounting closer to reality, to increase the transparency and disclosure of pension information to participants. They deserve to, and have to, know where their fund is at all times.

With this legislation, we give ourselves time to ensure that we make the right decisions to strengthen the pension system and improve retirement security. These decisions will be very difficult but we have to make them. Anything less is unacceptable. We cannot pass the burden of a broken pension system on to future generations.

Of course, while we are doing that we need to make sure we are also taking a look at Social Security, because Social Security is a defined benefit plan and it is underfunded. We have a chance to fix that. The earlier we work on it, the better it can be fixed with the least pain. Of course, part of that process has to be to ensure that those who are entering the job market continue to pay into Social Security.

In another 25 or 30 years there will not be anybody here who is here now. It will be the generation coming into the job market right now, the ones who are going to discover that 15 percent of their paycheck is going into a defined benefit plan, Social Security, and that the money isn't going to be there when they get out, when they are ready to take advantage of it because what goes in today gets paid out today, essentially. They could end that defined benefit system because they will say we don't owe anything to those people, just ourselves.

I am hoping that is not the attitude in this country. But it is something we have to worry about as well. But the more immediate need, the one that is having difficulties right now with the funding process, and unlike the Social Security system, is funded—it is funded and we are having a crisis with it—that is the one we want to take care of. But we need the time to do it right and this bill will give us time to do it right.

I ask people to pay careful attention to the amendments, work in a very bipartisan way to get this 2-year solution, so we can come up with the overall solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank the Chair.

#### TRAFFIC SAFETY

Mr. DEWINE. Mr. President, the No. 1 killer of those between the age of 4 and 34 in this country today is auto fatalities. If you look at those between the age of, say, 16 and 25, the figures are even more exaggerated. We all know that in this country over 42,000 Americans lose their lives every year. That figure stays fairly constant. The last year we have figures for is 2002, and 42,815 of our fellow citizens lost their lives.

In fact, in the next 12 minutes, to be precise, at least one person will be killed in an automobile accident in this country, while nearly six people will be injured in just the next 60 seconds.

This is a tragedy that we as a society are much too willing to tolerate. If a foreign enemy were doing this to us, we would not tolerate it. We would be up in arms. Someone said it is the equivalent of a 747 going down every 2 days in this country. If that were happening, of course, it would be on CNN; we would be demanding an explanation. Yet these auto fatalities that occur, hour by hour, day by day, just go on and for some reason we have become immune to it, hardened to it. They just continue.

I come to the floor this morning to discuss five bills, five bills that my staff and I have been working on for about the last year, five bills that I will be introducing but that I hope will be incorporated in the highway safety bill we will be considering in the next several weeks. These bills are common-

sense, practical ways to save lives. Each bill is built on solid evidence of what will, in fact, make a difference.

They don't cost a lot. It is a commonsense, good way to make a difference. I guarantee you one thing. If we pass them, they will save a lot of lives.

The first bill we call "Stars on Cars." It is kind of a cute name. It is kind of basic stuff.

When you go buy a new car, we all know what the sticker looks like. But what we may not know is most of the sticker is mandated by the Federal Government. The mileage per gallon has been on there for a number of years. The Federal Government says that your city mileage has to be on there and what you are going to get on the highway when you take it out on the highway. It has to tell you whether it has air-conditioning. It has to tell you whether it has a stereo. It has to tell you a whole bunch of other stuff.

One piece of information is not on there—highway safety.

The funny thing is you have already paid to have the Federal Government spend millions of dollars to test that very car. The Federal Government knows information about that car. In fact, the Federal Government has put that information up on the Internet. When you go in to buy that car, that information is not available to you. It is not available to the American consumer in the one place where it would make a difference—where you buy the car.

This is a mockup. We simply show how it would work under our bill. It wouldn't cost the taxpayers a dime. The car companies are already printing the stickers. Where are they doing the tests? All we do is put the information here. Under this mockup, this is a Silverado pickup. We would add what is below my hand: "Government Safety Information." For this particular pickup, on frontal impact crash data, this is what it would show. This is true information.

For the driver side, here is what the Government says. Out of five stars, this particular vehicle got three out of five. For the passenger side, it got four stars out of five.

Over here on the side impact crash test, it was not tested. Over here on the rear seat, it was not tested either.

On the rollover resistance test that particular vehicle was not tested. If it was tested, it would be there. If it was not tested, it wouldn't be there.

In the year 2000, that particular vehicle was not tested. But most of the common cars you and I and the average American would buy have, in fact, been tested. All of that data on the frontal impact crash test, the side impact crash test, and the rollover resistance test would be there. We would have it based on the star. It is really easy to understand. That data would be there. It is already on the Internet. Now it would be available if you go look and compare. What impact would this have?

I happen to believe the consumer is better off with more information than less information on whatever we are talking about. The consumer ought to know what the Government does. The consumer ought to know that type of information. I think the consumer would make better choices. Most consumers care about safety. They will make better choices, and in all likelihood, they are going to choose more safe vehicles and more lives will, in fact, be saved. It just makes good common sense to do this.

The second bill we call "Safe Kids, Safe Cars." Cars kill kids at unbelievable rates. This is the top 10 leading cause of death in the United States for the year 2001 by age group, ranked 1 through 10 for the leading cause of death.

In the orange is traffic crashes as a cause of death. Starting over here, you see ages 1 through 3, 4 through 7, and 8 through 15. When you start over here and pick up at age 4 through 7, and moving on clear over here to age 34, the leading cause of death is traffic crashes, traffic crashes, traffic crashes, traffic crashes—all of these age groups all the way from 4 through 34.

That is what is killing the young people—more than cancer, more than homicide, more than fire, more than drowning, more than anything else. So we have a problem. Anything we can do to make a car safer for our kids, we should be doing it.

We know a lot of kids and a lot of adults are killed when cars roll over. The Government is doing tests to see how likely a vehicle is to roll over. But it might come as a surprise to my colleagues and to the public to know that the Government is not doing any testing today to determine what happens inside the vehicle once the car begins to roll over. We test to see if it is going to roll over. What we don't test to see is what happens when it starts to roll over and when it does roll over. Our bill provides for the use of child-size dummies and the use of adult dummies to see what impact that rollover has on them.

What are you going to do if you get that information? It is going to tell us, I assume, how well those airbags in that particular vehicle deploy, how well they protect the adult, and how well they protect the child. It may be different. How well is the structure of that vehicle put together for a rollover? Does it crush on the side of the child or the adult? How well was the structure built? We don't know. We don't know it because we are not testing for it today. Our bill provides that we do that.

Child-size dummies—NHTSA needs to look at its testing and ask where we need to use them. My bill says they need to incorporate these child dummies. We are doing so to improve safety for children.

Another area where kids are dying in cars is power windows.

NHTSA started a rulemaking to require child-safe window switches in

1996. That is when this Federal agency started making the rulemaking procedure. That rulemaking procedure is not done yet. They have not finalized the rule.

My bill tells NHTSA to finish the rulemaking process, and it requires car makers to install switches to protect kids from getting caught in power windows by making switches harder to switch inadvertently. Some car makers are already doing this. This can be done very cheaply. Companies are doing this already. Every company needs to do it. This is not an expensive proposition. There are good switches and there are bad switches. Every company needs to have the good switches.

Twenty-five children have died that we know of in the last 10 years because they have been choked to death in cars. At least 25 we know about. At least 500 people go to emergency rooms each year as a result of power window accidents. NHTSA tells us the power switches cost virtually nothing, very little.

A third bill has to do with another problem; that is, dangerous road intersections. Every State has them. Most States, fortunately, rank these roads. They keep a list of the bad ones. But, amazingly, there are many States that keep this information secret and don't tell the public.

Again, consumers have a right to know this information. What would you do with the information? As a parent, I might tell my 16-year-old not to go that way to the movie. At least I have the right to have that information and saying go another way. It might take another 10 minutes, but go that way. Don't go by that intersection. Don't go on that curvy road. States already have that information. The State should provide that information. They already know it, they should provide it. Policymakers need to know that to make decisions about how to spend money in that State, what roads to fix.

Further, States need to spend their safety money. They need to spend their safety money on safety. Our bill says they should do that and it requires them to do it. Current law allows States to shortchange safety programs or to do other things—highway construction. I understand that, but that should not occur. Safety programs pay for new left turn lanes, lane markings, other improvements, lifesaving improvements, straightening roads, straightening highways, doing some relatively small things that will, in fact, save lives.

The percentage of money earmarked, set aside for safety as it comes through the highway construction bill should be spent for those safety items. We are not talking about soft safety programs; we are talking about hard construction dollars. They are still construction dollars. They will still be used for construction. They will still be used to make things happen. They should be used for safety.

The fourth bill I am introducing has to do with driver education. This is a neglected area. Again, look at our chart. These are the kids who are dying, the new drivers. It is natural; they are the inexperienced drivers. We need to try to attack this in many different ways. One way we can do it is through driver education. It is a problem. I have looked at it in my home State. I have looked at it in other States. Driver education, at best, is mediocre in this country. The Federal Government cannot run it. It is a State responsibility. But the Federal Government can play a small role. My bill follows the National Transportation Safety Board's lead and recommendation and establishes the National Office of Driver Training within the Department of Transportation, NHTSA. This office would work to establish and maintain a set of best practices—not mandates, not national standards but just best practices—for driver education and licensing and also would provide assistance to States that implement these best practices.

My bill authorizes a modest amount of money, \$20 to \$30 million annually to assist States with making their driver education and licensing programs better.

Our bill also deals with a graduated driver's license and raises the bar for a Federal program to give money to States for having graduated driver's licenses and laws. One of the good things we have seen in the last few years is the graduated driver's licensing laws that come into place in the States. Each State has done it differently. That is the improvement. What we and most experts have seen is there are some laws that are working and some laws that are not working. Again, the Federal Government cannot tell the States what to do in this area, but maybe the Federal Government can reward those States that are at the higher point, the higher bar, maybe give some encouragement in that area.

Our fifth bill has to do with tires. Tires do not get better with age. The fact is, there are tires being sold in the market today that were manufactured a while ago. Tires are not like wine. They do not get better with age. We do not know for sure what the implications are of the aging of a tire, a tire that was sitting on the shelf. We do know that the tire that gets old does not get better.

My bill calls for the National Academy of Sciences to conduct a scientific study into tire aging to establish exactly when and under what conditions tire age becomes a major safety problem. We know at some point it becomes a safety problem. We just do not know when and under what conditions. Currently, the date code on tire sidewalls is extremely difficult to read or decipher. There is a date there but you and I could not figure it out. The average consumer could not figure it out.

What we provide is that the Department will figure out how to do this. We

will not tell them how to do it. But we want the consumer to know when he or she buys a tire—at the point of sale—when that tire was manufactured. That, coupled with the information from the scientific study, will give consumers some information. Again, we will move forward in giving the consumer information about the age of the tire, knowing when it was manufactured, plus, once the study is done the consumer will know the relevance of that information.

We have talked with the tire industry and worked with them. They want to know, frankly, what all the implications are for aging tires. They have worked hard to make their tires as safe as possible. They have done a lot in this area and improved the safety of their tires and have been cooperative in this, as well.

These five bills will go a long way. They are common sense. They will make a difference. These bills continue my work in this area. This is something I have been interested in for many years, going back to my time in the Ohio Legislature 20 years ago when I introduced the drunk driving bill, and we were able to pass a tough drunk driving bill I wrote in the Ohio Legislature. I worked for .08. It was very controversial in the Senate, but we were able to pass .08. Senator LAUTENBURG and I worked on that.

I support Senator WARNER's bill and was a cosponsor of a bill he introduced last year that was pending in Congress with regard to including a primary seatbelt law. I support that. These bills represent a continuation of the great concern I have about highway safety. This issue is not a partisan issue; this is a bipartisan issue.

Anytime you lose 42,815 Americans every year, highway safety is something we all have to be concerned about.

I know the bill is not on the floor yet, but I have seen it. I have seen a draft of the safety bill that will be here, the highway bill. As currently written, the bill goes farther than any highway bill that has been before the Senate in regard to highway safety. All those who worked on the bill have put an emphasis on highway safety, and the bill as currently written makes a great effort to deal with highway safety. I congratulate the authors.

Our amendments which we will have when the bill comes to the floor will improve on a good bill. I make that point very clear. My amendments are not in any way critical of that bill. In fact, I hope they will be complimentary and simply add to a good product that is already a good product and will help to improve it.

I will have more to say about this as we proceed on the highway construction bill and it comes to the floor in the next few weeks.

## SELLING CRIME: HIGH CRIME GUN STORES FUEL CRIMINALS

Mr. LEVIN. Mr. President, last week, Americans for Gun Safety, AGS, published a report entitled "Selling Crime: High Crime Gun Stores Fuel Criminals." This report identifies gun stores around the country that sell the most guns used in crimes.

Federal law requires gun stores to be licensed to sell firearms by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, ATF. However, according to Americans for Gun Safety, until recently, the ATF had never released information on the number of crime guns traced back to gun stores. AGS acquired all of its data via Freedom of Information Act requests. The data reveals some troubling facts. According to the report, 96 of the 120 dealers named in the report remain open, and only 24 have been inspected by federal agents during the past 3½ years. When inspected, 18 of these 24 dealers were cited for at least one violation of federal gun laws and seven high crime dealers were cited more than five times.

The AGS study focuses attention on negligent and irresponsible gun dealers. However, language included in the Fiscal Year 2004 Omnibus Appropriations bill will make it impossible for this data on such dealers to be made available to the public in the future. Language included in the omnibus specifically prohibits the release of information related to tracing requests on guns used in crimes.

And that is not the only problem. Even more importantly, language in the bill mandates that the Justice Department destroy background check records for the purchase of guns within 24 hours of the gun purchase. Under current regulations, the ATF can retain the records from gun purchases for up to 90 days. This 90-day period gives law enforcement the opportunity to review and audit gun purchase records for illegal activity and problems with the background check system. The provision requiring the destruction of records within 24 hours was inserted into the bill without a debate or discussion of its potential impact. It is incomprehensible that, at a time when we are in a heightened state of alert to guard against terrorism, we are not providing law enforcement with more than 24 hours to examine information on weapons purchases.

The gun provisions in the omnibus were never the subject of Senate hearings and are not supported by major law enforcement organizations. They undermine the efforts of the ATF to meet its responsibilities, weaken the public's right to know, and make it more difficult for other law enforcement agencies to do their job.

## ADDITIONAL STATEMENTS

### LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

Leonard "Lynn" Vines, a cross-dresser and native of East Baltimore, was attacked in front of his cousin's home and shot six times by a group of people asserting "we don't allow no drag queen faggots in this neighborhood." Fortunately, Vines survived the attack.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well. •

### DIABETES

• Mr. JOHNSON. Mr. President, as we commence the second session of the 108th Congress, I want to take this opportunity to bring attention to a serious health problem that our Nation faces everyday. This health care dilemma encompasses all ages, genders, and races in our Nation. I am referring to diabetes, which impacts 18.2 million people in the United States, or 6.3 percent of the population. As we embark on this session, we need to reconfirm our commitment to addressing a key objective of many in Congress to fight this chronic health problem which threatens the lives of millions.

The American Diabetes Association, as well as the Center for Disease Control and Prevention or CDC, has stated that of the 18.2 million Americans living with this disease, only an estimated 13 million have been diagnosed, therefore leaving 5.2 million people, or nearly one-third, completely unaware that they have the disease. There are three major types of diabetes; Type 1, Type 2, and gestational diabetes. Type 1 diabetes results in the body's failure to produce insulin. The ADA believes that 5-10 percent of Americans who are diagnosed with diabetes have Type 1. Type 2 diabetes results from insulin resistance, combined with relative insulin deficiency. Approximately 90-95 percent, 17 million, of Americans who are diagnosed with diabetes have this type of diabetes. Gestational diabetes affects about 4 percent of all pregnant women—about 135,000 cases in the United States each year. About 110,814 Native Americans and Alaska Natives, or 14.9 percent of the population, receiving care from Indian Health Services, IHS, have diabetes.

Diabetes is associated with many other serious chronic health conditions. About 65 percent of deaths among people with this illness are due to heart disease and stroke. Heart disease is the leading cause of diabetes-related deaths, while the risk for stroke is 2 to 4 times higher among people with this illness. About 73 percent of adults with diabetes have high blood pressure or use prescription medications for hypertension. Diabetes is the leading cause of new cases of blindness among adults aged 20-74 years, with diabetic retinopathy causing 12,000 to 24,000 new cases of blindness each year. Diabetes is the leading cause of end-stage renal disease, accounting for 44 percent of new cases. Sixty to 70 percent of people with diabetes have mild to severe forms of nervous system damage. The results of such damage include impaired sensation or pain in the feet or hands, slowed digestion of food in the stomach, carpal tunnel syndrome, and other nerve problems. In addition, this contributes to more than 60 percent of lower-limb amputations each year. Gum disease is more common among people with diabetes, thus placing young diabetics at twice the risk of those without this condition. Poorly controlled diabetes before conception and during the first trimester of pregnancy can cause major birth defects in 5 percent to 10 percent of pregnancies. Poorly controlled diabetes during the second and third trimesters of pregnancy can result in excessively large babies, posing a risk to the mother and the child. Uncontrolled diabetes often leads to biochemical imbalances that can cause acute life-threatening events, such as diabetic ketoacidosis and hyperosmolar coma. People with diabetes are more susceptible to many other illnesses, and once they acquire these illnesses, often have worse prognoses, such as being more likely to die with pneumonia or influenza than people who do not have diabetes.

In 2002, 47,555 or 6.3 percent of South Dakotans, were diagnosed with diabetes. And when applying the national estimate that nearly one-third of all diabetes cases go undiagnosed, this would add an additional estimated 15,693 cases. This means that the most recent number of South Dakotans with diabetes could be an estimated 71,000 people. Also, important to South Dakota are estimates by the American Diabetes Association that Native Americans have a higher rate of diabetes, which makes this group 2.2 times more likely to have diagnosed diabetes as non-Hispanic whites of similar age.

A report showed that the indirect costs associated with diabetes were \$40 billion in the United States in 2002, while direct medical costs were approximately \$92 billion, therefore bringing the overall costs in our country to \$132 billion. It is estimated that each year there are 1.3 million new cases of diabetes diagnosed in people aged 20 and older. Increased emphasis on prevention will help reduce the incidence of new cases and be a step in the

right direction to reduce the social, economic and human costs associated with diabetes.

Congress has the ability to enhance Federal programs and increase funding to combat this debilitating illness. I was pleased to see the bipartisan dedication to doubling the funding of the National Institutes of Health, NIH, over a 5-year period, which was completed in 2003. This initiative alone has helped to expand current research, which therefore improves the path toward finding treatment and cures of all diseases, including that of diabetes. As a member of the Senate Appropriations Committee, I was pleased to work with my colleagues on both sides of the aisle to request \$1.6 billion for the National Institute of Diabetes and Kidney Diseases for fiscal year 2004. In addition to NIH, we must continue to fight to secure increased funding for the Centers for Disease Control and Prevention, CDC. The CDC provides invaluable research on chronic diseases such as diabetes, and helps fund important state program such as the South Dakota Diabetes Prevention and Control Program, DPCP.

I encourage both Congress and the President to continue to build on existing efforts to address diabetes through increased funding for NIH, for the Institute of Diabetes and Kidney Diseases, and for the CDC in the upcoming year. I believe that we can achieve this goal in bipartisan fashion and provide greater assistance to the many Americans in all parts of our Nation that live with this chronic illness.●

#### OMNIBUS APPROPRIATIONS

● Mr. FEINGOLD. Mr. President, I opposed the omnibus appropriations bill that the Senate voted on yesterday. It is the latest example of the annual breakdown in the congressional appropriations process. Once again, instead of considering appropriations bills individually, the Senate voted on a massive spending bill that includes many—in this case, seven—of the annual appropriations bills.

This process just invites the kind of problems—unauthorized spending, special interest provisions and legislative riders that go against the will of a majority in Congress—that we see in this omnibus bill. Take, for example, the Bush administration's proposed sweeping changes to regulations governing overtime pay for white-collar workers. These proposed changes would weaken overtime protections for these workers by changing the way that eligibility for overtime is determined. Both the House and the Senate are on record in favor of a provision that would block these changes from going into effect. Nonetheless, that provision was dropped in conference after the administration exerted tremendous pressure on those negotiating the final bill.

Similarly, language that would have prevented the Federal Communications Commission from moving forward with

its plan to loosen the national cap on television ownership was badly weakened. And, of course, there are numerous bad provisions in the bill, including one that would create a voucher program in Washington, DC, public schools and another that would prevent country of origin labeling on many agricultural products.

I wish I could have supported this bill as there are a few worthy things in it, such as funding for global AIDS programs and for the rural AED Act, a program I created with Senator SUSAN COLLINS to increase access to defibrillators in rural areas. I am pleased that the bill contains language I fought for that would required Federal agencies to report on their purchases of foreign-made goods. As manufacturing jobs continue to disappear across the country, particularly in my home State of Wisconsin, the Federal Government should be doing everything it can to support American manufacturers. I am also pleased that the bill includes a provision I fought for to prohibit the Department of Veterans Affairs from enforcing its policy of prohibiting VA employees from taking proactive steps to let veterans know about the health care benefits for which they may be eligible.

Those provisions do not outweigh the many bad ones in this bill, however. Mr. President, this is simply no way to fund the Federal Government. I regret that this "must-pass" bill is being used as a platform for bad funding decisions and for bad policy decisions, many of which override the will of a bipartisan majority of Congress. We need to go back to taking up and passing appropriations bills one by one, rather than throwing everything but the kitchen sink into a single, bloated piece of legislation.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. CONRAD, and Mr. ENZI):

S. Res. 289. A resolution expressing the sense of the Senate with respect to free trade

negotiations that could adversely impact the sugar industry of the United States; to the Committee on Finance.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 290. A resolution to authorize testimony, document production and legal representation in State of Idaho v. Joseph Daniel Hooper; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 1394

At the request of Mr. HARKIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1394, a bill to establish a demonstration project under the medicaid program to encourage the provision of community-based services to individuals with disabilities.

S. 1693

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1693, a bill to amend section 35 of the Internal Revenue Code of 1986 to allow individuals receiving unemployment compensation to be eligible for a refundable, advanceable credit for health insurance costs.

S. 2008

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2008, a bill to amend the Animal Health Protection Act to direct the Secretary of Agriculture to establish an electronic nationwide livestock identification system, and for other purposes.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 289—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO FREE TRADE NEGOTIATIONS THAT COULD ADVERSELY IMPACT THE SUGAR INDUSTRY OF THE UNITED STATES

Mr. DORGAN (for himself, Mr. DAYTON, Mr. COLEMAN, Mr. CONRAD, and Mr. ENZI) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 289

Whereas the President has concluded negotiations with El Salvador, Guatemala, Honduras, and Nicaragua to form a Central American Free Trade Agreement (referred to in this resolution as "CAFTA"), and is seeking to incorporate Costa Rica and the Dominican Republic into that agreement;

Whereas CAFTA seeks to provide those countries with increased access to the United States sugar market;

Whereas, simultaneously, the Administration has embarked on a multitude of free trade agreements with major sugar producing nations such as Australia, members

of the South Africa Customs Union, Thailand, nations of the Western Hemisphere, and others, and has made it clear that access to the United States sugar market is on the negotiating table;

Whereas, the United States sugar market is already oversupplied, with declining consumption forcing domestic sugar producers to store extremely high quantities of sugar;

Whereas significant increases in sugar imports under CAFTA and other trade agreements currently under negotiation could render inoperable basic elements of the United States sugar program enacted under the Farm Security and Rural Investment Act of 2002 (Public Law 107-171);

Whereas effects on the United States sugar program would wreak havoc in the United States sugar industry, and result in the loss of thousands of jobs and farms involved in sugar production in 19 States across the country; and

Whereas any constructive effort to address distortion in the world sugar market should be handled multilaterally through the World Trade Organization, in a manner that addresses comprehensively and simultaneously the sugar subsidy programs of all major world producers, and should not be handled through bilateral or regional agreements: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the President should renegotiate provisions of CAFTA relating to access to the United States sugar market, so as to grant no greater access to the United States sugar market than is currently enjoyed by the signatories to the agreement; and

(2) the President should not include sugar as an element of negotiations in any bilateral or regional free trade agreement.

Mr. DORGAN. Mr. President, I am going to, at the conclusion of my remarks, offer a resolution on behalf of myself, Senators DAYTON, COLEMAN, and CONRAD. This resolution deals with the issue of trade negotiations that have been conducted with the Central American Free Trade Agreement countries. It also relates to my concern about the trade negotiations that are underway today, this morning, in Washington, DC, with Australia to try to create a free trade agreement with Australia.

I will explain the resolution. After the whereases, it says:

It is resolved that the sense of the Senate is that the President should renegotiate provisions of the Central American Free Trade Agreement relating to access to the United States sugar markets so as to grant no greater access to the U.S. sugar market than is currently enjoyed by the signatories to this CAFTA agreement; 2, the President should not include sugar as an element of negotiations in any bilateral or regional free trade agreement.

I want to explain why we feel this way. I will also observe that this is bipartisan in its offering. It is very important to our region of the country. First, let me explain sugar. Sugar comes from sugar beets and sugarcane produced by our growers. With sugar beets, it is in the Red River Valley between North Dakota and Minnesota. We have the opportunity to plant beets and process the resulting crop into sugar, and in this country we have a robust sugar industry with many growers living out on the land and pro-

ducing a crop and contributing to our economy.

Most of the sugar internationally around the world is traded between countries on a contract basis—country-to-country contracts. That is the way most sugar is traded. But there is surplus sugar outside of those contracts that represents dumped sugar; it is surplus dumped sugar, priced at a nickel a pound, or 5, 6, 7 cents a pound, and then thrown all over the world wherever it may rest, and it devastates local markets.

Let me describe with this chart what we have in this country. Our U.S. consumption of sugar is about 7.8 million metric tons, and we import a little over a million metric tons. We are now engaged in trade agreements with countries that produce a massive quantity of sugar, much of it for export. This is the potential exports from countries with whom we are engaged now in negotiations for free trade agreements. You can see the CAFTA countries—Central American Free Trade Agreement countries—which are Honduras, Guatemala, Costa Rica which has not yet signed on, El Salvador, and so on. This is Australia, Thailand, the Free Trade Agreement of the Americas, which includes Brazil. You can see this is a giant amount of sugar.

The proposition is this. Our trade negotiator has put sugar on the table in grade negotiations on these bilateral agreements. The result of it is death by a thousand cuts to our domestic sugar producers. If we end where I think we will end with the Central American Free Trade Agreement, the Free Trade Agreement of the Americas, and others, we will end up as a country without a domestic sugar industry.

The sugar beet growers who live on the land and produce sugar beets will not be there in the future because they cannot compete and should not be expected to compete against dumped sugar. Yet that is where we are heading.

This ought not be a part of the trade agreements the trade ambassador is now negotiating. The larger question with respect to sugar trade ought to be dealt with in the World Trade Organization, not individual trade agreements, with the Central American Free Trade Agreement—the free trade agreement with the Americas. That is the position we take, Senator CONRAD, Senator DAYTON, Senator COLEMAN, myself, and others here in the Senate.

Let me tell you what has happened. In the Central American Free Trade Agreement, the U.S. Ambassador put sugar on the table and negotiated an agreement that was going to allow incremental sugar to come into our country. Will that quantity of sugar by itself destroy our industry? No, it will not. But the precedent will. That is because that precedent means sugar will be in the Australia agreement and the FTAA agreement and the quantity of sugar that is going to come into this

country at dumped prices will inevitably destroy our sugar industry. That is why we must stop it.

Let me tell you what happened yesterday. Yesterday, in Inside U.S. Trade—that is the publication—and also in North Dakota newspapers was a story: “U.S. Withholds Sugar Offer in Australia Trade FTA Negotiations.”

U.S. Trade Representative Robert Zoellick has said the U.S. position is not to provide Australia with any increased market access for sugar, said a U.S. trade official.

Good for them. That is exactly the right position and one I support, one I aspire to achieve, to stop having sugar as part of these negotiations.

Let me read to you today's news.

A U.S. trade official is being quoted as saying Bush administration trade negotiators have asked Australian negotiators to settle for a free trade agreement which does not open the U.S. market to any more Australian sugar.

But the official denied U.S. trade representative Robert Zoellick had told a North Dakota radio station that sugar had been taken off the table.

So they are saying a representative of the trade ambassador is quoted as saying sugar will not be in the Australia agreement—yesterday. But today, the official, a trade official from this administration, denied that Ambassador Zoellick had told a North Dakota radio station sugar had been taken off the table.

Mixed messages, I would say. But at least today's news from the USTR is sugar is a part of this. It will be a part of it.

That is the concern we have with the Central American Free Trade Agreement. When you put it in that agreement, they will want to put it in Australia's and Brazil's agreement, and there you go, one step at a time toward disaster for our growers, our farmers out there who are trying to make a living. They can make a living by competing. I don't mind asking them to compete and they don't mind competing. But they can't compete against dumped sugar that represents a world price of a nickel or 6 cents a pound, that has no relationship to the cost of production. All that has is a relationship to dumped price. It will destroy our industry.

We are offering a resolution today—my two colleagues from the State of Minnesota, my colleague from North Dakota—a resolution that says to the President: Renegotiate the provision of the Central American Free Trade Agreement relating to access to the sugar market, No. 1. No. 2, do not include sugar as an element of negotiations in any bilateral or regional free trade agreement.

I hope the Senate will pass this sense-of-the-Senate resolution. I hope we can get a vote on it. I hope the Senate will express itself to the trade ambassador and the President: Don't do

this. It is unfair to our growers, unfair to our farmers, unfair to an industry that produces substantial numbers of jobs and economic opportunity.

The sugar beet industry in the Red River Valley of North Dakota has \$1 to \$2 billion of impact in our economy, and once again I say they can compete and they will compete when asked to compete anywhere around the world, but they cannot compete against unfair trade, and dumped sugar is unfair trade, yet that is exactly what we are connecting to in these trade agreements and that is why we want to stop it right now before it goes further.

Australian representatives are in Washington, DC, now. The ambassador for the United States who negotiates trade agreements says he wants to finish this agreement by the end of January. If they finish this agreement with Australia, my hope is the Senate will have expressed itself by that time in a way that says: Do not do this with respect to sugar. Do not take steps that potentially destroy the sugar industry in this country, that potentially destroy the opportunity of beet growers in the Red River Valley to make a living. That is not a step forward; that is a step backward for this country.

I hope the trade ambassador hears this. I don't understand for the life of me why we got a message yesterday saying, I am going to do the right thing, I won't have sugar in the negotiations with Australia, and then today—and this is on ABC, incidentally, Online, you can go to the Internet and see it—today the United States trade official denied that the trade ambassador said that. I don't understand this at all.

My hope is the Senate will do what it has done before on this issue of sugar. The Senate has taken a position on this before. The sugar program of ours works. It provides good prices, advantageous prices for the American consumer, it provides assured quality of supply, and it provides an opportunity, with fair trade, for our growers to make a living in this country in the sugar industry, an industry that is important to our country.

I am going to have this resolution introduced at the conclusion of my remarks. My hope is my colleagues in Congress will support it. I know there are many who are strong supporters of the position that it is fine to negotiate trade agreements but it is not fine to undercut our country's interests with trade agreements.

It is almost impossible for me to begin talking about trade without describing the circumstances in which we find ourselves. We have the largest trade deficit in human history right now, the largest deficit ever after our trade negotiations and agreements have been put in place—the largest deficits ever. We have an agreement with Canada and take a modest trade deficit and turn it into a big one. We have an agreement with Mexico and take a trade surplus and turn it into a

big deficit. The trade deficit with Japan just keeps growing. The deficit with China is out of sight, well over \$100 billion and will probably reach \$130 billion this year; almost a third of a billion dollars a day in trade deficit with just China alone. With Europe? I can't even begin to describe the problems we have with Europe in beef and other areas. The fact is, we need to fix this.

Will Rogers said many years ago, the United States of America has never lost a war and never won a conference. He must surely have been thinking of our trade negotiators. It takes them no more than a week or two to come back with a trade agreement that undercuts especially the interests of American agriculture, but if you look at the trade deficit, I would say undercuts this country's economic interests. It is not in this country's economic interests to continue to see this trade deficit grow and grow and grow.

That trade deficit, incidentally, is connected to the process by which jobs stream out of this country, by companies that decide they want to produce elsewhere and ship into this country, by companies that decide they want to move jobs offshore. "We want to create a new mailbox someplace in the Bermudas or Bahamas or some other tax haven country in order not to have to pay taxes to the U.S., and at the same time close our factories and ship jobs overseas."

That is what this measure is, that is the consequence of this, and that is why this has to change, in my judgment.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming would like to be added as an original cosponsor of the resolution.

Mr. DORGAN. Mr. President, I thank the Senator from Wyoming. He has been an assertive and strong voice on a number of these trade issues, including specifically the sugar issue. I am proud to have him as a cosponsor on this resolution.

#### SENATE RESOLUTION 290—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION IN STATE OF IDAHO V. JOSEPH DANIEL HOOPER

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

##### S. RES. 290

Whereas, in the case of State of Idaho v. Joseph Daniel Hooper, C. No. CRM-03-019550, pending in the District Court of the first Judicial District of the State of Idaho, in and for the County of Kootenai, testimony has been requested from Michelle A. Panos, an employee in the Coeur d'Alene office of Senator Larry E. Craig;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any

subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Michelle A. Panos, or any other current or former employee of Senator Craig's, is authorized to testify and produce documents in the case of State of Idaho v. Joseph Daniel Hooper, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michelle A. Panos and any other current or former employee of Senator Craig's in connection with the testimony and document production authorized in section one of this resolution.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2235. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 2235. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

#### SEC. . . RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.

(a) IN GENERAL.—Notwithstanding any provision of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974, the provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a) to the plan's pre-termination status and the control of the plan's assets and liabilities shall be transferred to the employer, unless the collective bargaining agreement provides that the plan should not be restored.

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section

412(l)(1)(A)(i) of such Code and section 302(d)(1)(A)(i) of such Act with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(l)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) 2004 UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1, 2004,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period of 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) 2004 UNFUNDED CURRENT LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1, 2004,

(B) in applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A)(i) of such Act with respect to a plan restored under subsection (b), the unfunded old liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation.

(C) in applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A) of such Act with respect to a plan restored under subsection (b), the unfunded old liability amount shall be equal to the unfunded old liability amortized in level annual installments over a period of 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of January 1, 2004, under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003 and ending on the date of plan termination.

(f) RESETING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before December 31, 2008, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(h) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

#### AUTHORIZATION TO SENATE LEGAL COUNSEL

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 290, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 290) to authorize testimony, document production and legal representation in *State of Idaho v. Joseph Daniel Hooper*.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony and documents in a criminal action in Idaho District Court for the County of Kootenai. In the case of *State of Idaho v. Joseph Daniel Hooper*, the Coeur d'Alene city attorney's office has charged the defendant with misdemeanor telephone harassment arising out of calls he made to Senator CRAIG's Coeur d'Alene office. The defendant is also facing a second, separate misdemeanor action for harassing telephone calls made to his Congressman's office.

Pursuant to subpoena issued on behalf of the city prosecutor, this resolution authorizes an employee in Senator CRAIG's Coeur d'Alene office who witnessed the events giving rise to this action, and any other employee in the Senator's office from whom testimony may be required, to testify and produce documents at trial, with representation by the Senate legal counsel.

Mr. DEWINE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 290

Whereas, in the case of *State of Idaho v. Joseph Daniel Hooper*, C. No. CRM-03-019550, pending in the District Court of the first Judicial District of the State of Idaho, in and for the County of Kootenai, testimony has been requested from Michelle A. Panos, an employee in the Coeur d'Alene office of Senator Larry E. Craig;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Michelle A. Panos, or any other current or former employee of Senator Craig's, is authorized to testify and produce documents in the case of *State of Idaho v. Joseph Daniel Hooper*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Michelle A. Panos and any other current or former employee of Senator Craig's in connection with the testimony and document production authorized in section one of this resolution.

#### ORDERS FOR MONDAY, JANUARY 26, 2004

Mr. DEWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Monday, January 26. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 3108, the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDER FOR RECORD TO REMAIN OPEN

Mr. DEWINE. Mr. President, I further ask unanimous consent that the RECORD remain open today until 1 p.m. to allow Senators to submit statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. DEWINE. Mr. President, on Monday the Senate will resume debate on H.R. 3108, the pension bill. While there will be no rollcall votes on Monday, Senators will have the opportunity to offer and debate their amendments. It is the leader's intention to complete action on this legislation early next week. Therefore, Members are encouraged to make themselves available during Monday's session to offer their amendments. Any votes ordered with respect to the pension bill will be stacked to occur on Tuesday.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, if my friend will yield, I am confident the distinguished acting majority leader does not have the answer to this question, but I hope we can get it soon. We would like to know, as soon as possible, whether those votes the leader con-

templates on Tuesday could come after the caucuses rather than before, or at least if they are not, we should know right away because some of the people who live on the east coast have the luxury of being able to come down here later in the day; those of us from the West have to come, anyway, the night before. But we would appreciate it if the leader would let us know as quickly as possible if he contemplates that vote in the morning on Tuesday or the afternoon.

Mr. DEWINE. We certainly hope to make that information available to the leaders as soon as possible.

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ADJOURNMENT UNTIL MONDAY,  
JANUARY 26, 2004, AT 1 P.M.

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:43 a.m., adjourned until Monday, January 26, 2004, at 1 p.m.

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NOMINATIONS

Executive nominations received by the Senate January 23, 2004:

## DEPARTMENT OF DEFENSE

JOHN J. YOUNG, JR., OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY, VICE MICHAEL W. WYNNE.

## DEPARTMENT OF STATE

SCOTT H. DELISI, OF MINNESOTA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF ERITREA.

AUBREY HOOKS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

JOSEPH D. STAFFORD III, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.